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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/056,063 | 01/28/2002 | M. Clark Dale | P66143US1 | 3968 |
| 7590 | 12/04/2003 | | EXAMINER | |
| JACOBSON HOLMAN 400 SEVENTH STREET, N. W. WASHINGTON, DC 20004 | | | LILLING, HERBERT J | |
| | | ART UNIT | PAPER NUMBER | |
| | | 1651 | | |

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------|-------------------|--------------|
| Advisory Action | Application No. | Applicant(s) |
| | 10/056,063 | DALE ET AL. |
| | Examiner | Art Unit |
| | HERBERT J LILLING | 1651 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. The proposed amendment(s) will not be entered because:
 (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) they raise the issue of new matter (see Note below);
 (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
 4. Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. The drawing correction filed on ____ is a) approved or b) disapproved by the Examiner.
 9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
 10. Other: See Continuation Sheet



HERBERT J LILLING
 Primary Examiner
 Art Unit: 1651

Continuation of 10. Other: A complete listing of all of the claims is not present in the amendment, see 37 CFR 1.121..

Applicant has submitted an amendment on November 7, 2003 which is not in compliance with 37 CFR 1.121.

The declaration has been found to be persuasive to withdraw the rejection of the claim. However, there is no showing that the claimed limitations meet the conditions of being suitable intrinsic properties to allow the product microorganism. Intrinsic properties e.g. the molecular weight, density, spectral properties are the same at all times. The intrinsic properties do not change at all whereas the declaration does not demonstrate properties that are intrinsic.

Examiner will allow product by process in this application.

Applicant is required to be in full compliance with amendments to the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Examiner Lilling whose telephone number is (703) 308-2034** and **Fax Number** is for applications **Before Final** (703) 872-9306 and **After Final** for applications is 703-872-9307 or SPE Michael Wityshyn whose telephone number is (703) 308-4743. Examiner can be reached Monday-Thursday from about 5:30 A.M. to about 3:00 P.M. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

H.J.Lilling: HJL
(703) 308-2034
Art Unit 1651
December 2, 2003



Dr. Herbert J. Lilling
Primary Examiner
Group 1600 Art Unit 1651